

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:19 CR 28 MR WCM

UNITED STATES OF AMERICA

v.

RODNEY DEJUAN ALLISON

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**ORDER**

This matter is before the Court on two Applications for Writs of Habeas Corpus ad Testificandum requested by Defendant. Docs. 260 & 261. By the Applications, Defendant seeks writs requiring that two of his co-defendants, Harry James Odum and Jeffrey Allen Wright, be transported so that they may appear and testify at Defendant's sentencing.

"In exercising its discretion to grant or deny a petition for writ of habeas corpus ad testificandum at sentencing, a district court should consider (1) the possible effect of the proffered testimony on the Guidelines, (2) 'the time, expenses, delay, and resources that would have to be expended to produce the witness,' and (3) the availability of other alternatives such as 'a stipulation, an affidavit, testimony over the telephone, etc.'" United States v. Johnson, 554 Fed.Appx. 139, 140 (4th Cir. 2014) (per curium) (unpubl.) (quoting United States v. Garrard, 83 F.3d 889, 893 (7th Cir. 1996)). The Fourth Circuit has affirmed the denial of a writ of habeas corpus ad testificandum where the time, expense, delay, and resources to produce the witnesses would be significant

and the defendant failed to provide a “clear forecast of these witnesses’ likely testimony—beyond his own claim that they were lying—and thus did not adequately demonstrate that they were necessary or relevant to the issues to be resolved during the sentencing hearing.” Id. at 140-41.

Here, the Applications provide that Mr. Odum is currently incarcerated in Atlanta, Georgia and that Mr. Wright is currently incarcerated in Edgefield, South Carolina. Docs. 260 & 261. Defendant’s sentencing is scheduled to occur on October 22, 2020 in Asheville, North Carolina. The Applications do not, though, provide sufficient information for the undersigned to assess the requests under the applicable factors, including why the testimony of Mr. Odum or Mr. Wright is necessary or relevant to Defendant’s sentencing.

**IT IS THEREFORE ORDERED** that the Applications for Writ of Habeas Corpus ad Testificandum (Docs. 260 and 261) are **DENIED WITHOUT PREJUDICE**.

Signed: October 8, 2020

A handwritten signature in black ink, reading "W. Carleton Metcalf", written over a horizontal line.

W. Carleton Metcalf  
United States Magistrate Judge

